

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0437.01 Duane Gall x4335

SENATE BILL 20-138

SENATE SPONSORSHIP

Rodriguez, Danielson, Gonzales

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING INCREASED CONSUMER PROTECTION FOR HOMEOWNERS

102 SEEKING RELIEF FOR CONSTRUCTION DEFECTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill:

- ! Increases the statutory limitation period for actions based on construction defects from 6 years to 10 years;
- ! Allows tolling of the limitation period on any statutory or equitable basis; and
- ! Requires tolling of the limitation period until the claimant

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

discovers not only some physical manifestation of a construction defect but also its cause.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 13-80-104 as
3 follows:

4 **13-80-104. Limitation of actions against architects,**
5 **contractors, builders or builder vendors, engineers, inspectors, and**
6 **others.** (1) (a) Notwithstanding any statutory provision to the contrary,
7 all actions against any architect, contractor, builder or builder vendor,
8 engineer, or inspector performing or furnishing the design, planning,
9 supervision, inspection, construction, or observation of construction of
10 any improvement to real property ~~shall~~ MUST be brought within the time
11 provided in section 13-80-102 after the claim for relief arises, and not
12 ~~thereafter~~ LATER, but in no case ~~shall such~~ MAY an action be brought
13 more than ~~six~~ TEN years after the substantial completion of the
14 ~~improvement~~ IMPROVEMENTS to the real property, except as provided in
15 subsection (2) of this section.

16 (b) (I) Except as otherwise provided in ~~subparagraph (H) of this~~
17 ~~paragraph (b)~~ SUBSECTION (1)(b)(II) OF THIS SECTION, a claim for relief
18 arises under this section at the time the claimant or the claimant's
19 predecessor in interest discovers or in the exercise of reasonable diligence
20 should have discovered BOTH the physical manifestations AND THE CAUSE
21 of a defect in the improvement ~~which~~ THAT ultimately causes the injury.

22 (II) Notwithstanding ~~the provisions of paragraph (a) of this~~
23 ~~subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, all claims, including
24 ~~but not limited to~~ indemnity or contribution, by a claimant against a
25 person who is or may be liable to the claimant for all or part of the

1 claimant's liability to a third person:

2 (A) Arise at the time the third person's claim against the claimant
3 is settled or at the time final judgment is entered on the third person's
4 claim against the claimant, whichever comes first; and

5 (B) ~~Shall~~ MUST be brought within ninety days after the claims
6 arise, and not ~~thereafter~~ LATER.

7 (c) ~~Such~~ Actions ~~shall~~ BROUGHT PURSUANT TO SUBSECTION (1)(a)
8 OF THIS SECTION include any and all actions in tort, contract, indemnity,
9 or contribution, or other actions for the recovery of damages for:

10 (I) Any deficiency in the design, planning, supervision, inspection,
11 construction, or observation of construction of any improvement to real
12 property; or

13 (II) Injury to real or personal property caused by ~~any such~~ A
14 deficiency DESCRIBED IN SUBSECTION (1)(c)(I) OF THIS SECTION; or

15 (III) Injury to or wrongful death of a person caused by ~~any such~~
16 A deficiency DESCRIBED IN SUBSECTION (1)(c)(I) OF THIS SECTION.

17 (2) ~~In case~~ IF any ~~such~~ cause of action DESCRIBED IN SUBSECTION
18 (1) OF THIS SECTION arises during the ~~fifth~~ NINTH or ~~sixth~~ TENTH year after
19 substantial completion of the ~~improvement~~ IMPROVEMENTS to real
20 property, ~~said~~ THE action ~~shall~~ MUST be brought within two years after the
21 date upon which ~~said~~ THE cause of action arises.

22 (3) The limitations provided by this section:

23 (a) ARE SUBJECT TO BOTH STATUTORY AND EQUITABLE TOLLING;
24 AND

25 (b) ~~Shall~~ MAY not be asserted as a defense by any person in actual
26 possession or control, as owner or tenant or in any other capacity, of ~~such~~
27 an improvement at the time any deficiency in ~~such an~~ THE improvement

1 constitutes the proximate cause of the injury or damage for which it is
2 proposed to bring an action.

3 **SECTION 2. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
5 the expiration of the ninety-day period after final adjournment of the
6 general assembly (August 5, 2020, if adjournment sine die is on May 6,
7 2020); except that, if a referendum petition is filed pursuant to section 1
8 (3) of article V of the state constitution against this act or an item, section,
9 or part of this act within such period, then the act, item, section, or part
10 will not take effect unless approved by the people at the general election
11 to be held in November 2020 and, in such case, will take effect on the
12 date of the official declaration of the vote thereon by the governor.

13 (2) This act applies to causes of action that accrue, as determined
14 in accordance with section 13-80-104 (1)(b), Colorado Revised Statutes,
15 as amended, on or after the applicable effective date of this act.